

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Hector M. Vaca,

Plaintiff,

v.

Sears Roebuck Company, d/b/a Sears,

Defendant.

C/A No. 3:04-23423-CMC-BM

ORDER

Plaintiff filed this action against his former employer, Defendant Sears Roebuck Company, d/b/a Sears, December 19, 2004, asserting several claims relating to his employment. Defendant filed a motion for summary judgment on September 5, 2007, and Plaintiff filed a memorandum in opposition to the Defendant's motion on September 28, 2007. Defendant filed a reply memorandum on October 15, 2007.

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(e) and (g), DSC, this matter was referred to United States Magistrate Judge Bristow Marchant, for pre-trial proceedings and a Report and Recommendation

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The court reviews the Report and Recommendation only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416

F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”) (citation omitted).

The Magistrate Judge has filed his Report and has recommended that Defendant’s motion for summary judgment be granted and that this case be dismissed, with a footnote that Plaintiff’s fourth cause of action should be dismissed without prejudice. No objections to the Report and Recommendation have been filed and the time for doing so has expired.

After reviewing the complaint, the motion, and the Report and Recommendation of the Magistrate Judge, the court finds no clear error. Accordingly, the Report and Recommendation of the Magistrate Judge is adopted and incorporated by reference.

IT IS, THEREFORE, ORDERED that Defendant’s motion for summary judgment is granted as to all but the Fourth Cause of action which is dismissed without prejudice.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
January 16, 2008

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